

PRADER LAVALL BROWN §
v. § CIVIL ACTION NO. 6:10cv634
DIRECTOR, TDCJ-CID §

The Petitioner Prader Brown, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his confinement. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Brown states that he was convicted of second-degree manslaughter in Harris County, Texas, in November of 2005, receiving a sentence of 20 years in prison. Court records show that this is the second federal habeas petition which Brown has filed concerning this same conviction.

See Brown v. Thaler, civil action no. 4:09cv3226 (S.D.Tex., dismissed with prejudice October 23, 2009, no appeal taken).

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legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

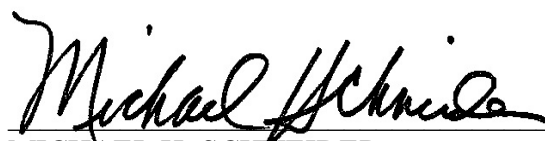
ORDERED that the Report of the Magistrate Judge (docket no. 5) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled petition is hereby DISMISSED without prejudice. Brown may refile his petition at such time as he obtains leave from the Fifth Circuit Court of Appeals to file a second or successive petition. 28 U.S.C. §2244(b)(3). He may not refile this petition without first obtaining such leave, and the dismissal of this petition shall have no effect upon his right to seek permission from the Fifth Circuit to file a second or successive petition. It is further

ORDERED that a certificate of appealability is DENIED *sua sponte*. Such denial refers solely to an appeal of the decision in this case and shall likewise have no effect upon Brown's right to seek permission from the Fifth Circuit to file a second or successive petition. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

SIGNED this 8th day of March, 2011.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive, flowing style. The first name "Michael" is written in a larger, more prominent script, and "H. Schneider" follows in a similar but slightly smaller script.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE